

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SCOTT A. MOSKOWITZ and MARC COOPERMAN



Appeal No. 2007-2273
Application No. 08/999,766

NOTIFICATION OF NON-COMPLIANCE REGARDING
ORAL HEARING REQUEST

Appellants filed a Request for Oral Hearing which was inserted on page 1 of appellants' brief filed July 10, 2003.

37 CFR § 1.194(b) (now 37 CFR § 41.47(b)) which was in effect at the time of the filing of the brief provides that a request for an oral hearing must be filed in a separate paper. Since appellant's request for oral hearing was not filed in a separate paper as required by 37 CFR § 1.194(b), a request for an oral hearing cannot be granted at this time. However, the \$140 fee for the oral hearing which was submitted and applied with the brief, is refundable under 37 CFR § 1.26.

If appellants desire the \$140 fee to be refunded, a request for refund should be filed as soon as possible.

If appellants still desire an oral hearing, a petition under 37 CFR § 1.183 must be filed within two weeks of the mail date of this notice. Such a petition must include:

- (1) a request to suspend the separate paper requirement of 37 CFR § 41.47(b),
- (2) a showing of facts to establish that an extraordinary situation exists and that justice requires the separate paper requirement of 37 CFR § 41.47(b) be suspended or waived, and
- (3)¹ be accompanied by the petition fee set forth in 37 CFR § 1.17. This two-week time period for filing a petition under 37 CFR § 1.183 is not extendable under 37 CFR § 1.136(a) (1)(iv).

The failure to timely file a petition under 37 CFR § 1.183 will result in the appeal being decided without an oral hearing (i.e., On Brief).

BOARD OF PATENT APPEALS
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By: Patrick J. Nolan
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¹ This requirement is unnecessary as the fee has already been charged to appellants' account.

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cc: WILEY REIN LLP
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